# UNITED STATES DISTRICT COURT DISTRICT OF OREGON PORTLAND DIVISION

LOUJAIN HATHLOUL ALHATHLOUL,		)	
		)	Civil No. 3:21-cv-01787-IM
	Plaintiff,	)	
v.		)	
		)	PLAINTIFF'S RESPONSE TO THE
DARKMATTER GROUP,		)	<b>COURT'S JANUARY 31, 2025 MINUTE</b>
MARC BAIER,		)	ORDER
RYAN ADAMS, and		)	
DANIEL GERICKE		)	
		)	
	Defendants.	)	
		)	

On January 31, 2025, the Court issued a Minute Order (ECF 133) requesting the positions of the parties as to whether it should solicit a statement of interest from the U.S. Department of State concerning the foreign policy implications of Plaintiff's Alien Tort Statute ("ATS") claims. On February 5, 2025, the Individual Defendants filed a Response (ECF 134) stating that "the Individual Defendants do not object to the Court's requesting the State Department's views and defer to the Court's sound discretion." Plaintiff hereby submits her response to the Court's Minute Order.

While the decision to request a statement of interest from the State Department is within the Court's discretion, the Court is under no obligation to make such a request. *Doe I v. Cisco Systems, Inc.*, 73 F.4th 700, 722 (9th Cir. 2023) (holding that no foreign policy considerations undermined recognition of plaintiff's cause of action under the ATS, despite the district court's refusal to solicit a statement of interest from the State Department), *aff'd en banc*, 113 F.4th 1230, 1235 (9th Cir. 2024) (mem.).

As in Cisco Systems, Inc., "the foreign policy implications here are not of sufficient concern to the United States government to trigger its involvement at this juncture." Id. at 1235. The Individual Defendants, who were current or former U.S. citizens at all relevant times, served as private contractors for DarkMatter and CyberPoint, private corporations that are not agencies or instrumentalities of a foreign state. No claims have been brought against the U.A.E. or U.A.E. officials. Notably, the U.S. government initiated criminal and administrative proceedings against the Individual Defendants for their conduct as employees of DarkMatter and CyberPoint. There is no basis to believe that the present civil proceedings would raise foreign policy implications when these criminal and administrative proceedings were allowed to go forward. Despite the public nature of the present suit, which was originally filed in December 2021, the U.S. Government has never sought to take any action regarding the case.

Nor do the Individual Defendants have any continued or renewed ties to the U.A.E. that would raise foreign policy implications. Pursuant to the DPA, the Individual Defendants agreed that they would continue to "never knowingly solicit employment from, or work for, in any capacity (i.e., as employees, consultants, teachers, contractors, or subcontractors) any U.A.E. government organization [...]." ECF 54-1 para. 17.

Thus, while Plaintiff acknowledges that the Court may, in the exercise of its discretion, seek the State Department's views, Plaintiff believes that the Court can, and should, resolve the fully briefed motion to dismiss the ATS claims based on the current record.

<sup>&</sup>lt;sup>1</sup> In September 2021, the Individual Defendants entered into a Deferred Prosecution Agreement ("DPA") with the U.S Department of Justice based on their conduct while employees at DarkMatter and CyberPoint. ECF 54-1. In July 2022, the Individual Defendants entered into a Consent Agreement with the U.S. Department of State arising out of their conduct while employees at DarkMatter and CyberPoint. ECF 54-2.

Dated: February 14, 2025 /s/ Christopher E. Hart

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## CENTER FOR JUSTICE AND ACCOUNTABILITY

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